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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Request for a preliminary ruling from the Tribunal do Trabalho de Lisboa (Portugal) lodged on 5 November 2013 — Jorge Ítalo Assis dos Santos v Banco de Portugal

(Case C-566/13)

(2014/C 31/02)

Language of the case: Portuguese

Referring court

Tribunal do Trabalho de Lisboa

Parties to the main proceedings

Applicant: Jorge Ítalo Assis dos Santos

Defendant: Banco de Portugal

Questions referred

1. Must a rule of national law requiring the central bank of the Member State in question to suspend payment of the 13th and 14th month pay to retired employees of that bank be interpreted as contrary to Article 130 TFEU, in so far as it involves interference by the Government (that is to say, the central administration) in the bank's decision-making powers with regard to its staff policy, in breach of the principal of the autonomy and independence of central banks?

2. Must a rule of national law requiring amounts corresponding to bonuses, payment of which is suspended, to be transferred to an organ of indirect state administration acting under the jurisdiction of the Minister of Finance, whose revenue and expenditure are reported in the state budget, be interpreted as being contrary to Article 123 TFEU, in so far as it infringes the principle prohibiting monetary financing of Member States by central banks?

3. Does the fact that the suspension of payment of the 13th and 14th month pay is restricted to retired workers and does not affect workers in active service infringe the principle of equality, having regard to the prohibition of discrimination laid down in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union? [1]

[1] OJ 2000 C 364, p. 1.

Reference for a preliminary ruling from High Court of Justice (Chancery Division), Patents Court (United Kingdom) made on 14 November 2013 — Actavis Group PTC EHF, Actavis UK Ltd v Boehringer Ingelheim Pharma GmbH & Co. KG

(Case C-577/13)

(2014/C 31/03)

Language of the case: English

Referring court

High Court of Justice (Chancery Division), Patents Court

Parties to the main proceedings

Applicants: Actavis Group PTC EHF, Actavis UK Ltd

Defendant: Boehringer Ingelheim Pharma GmbH & Co. KG

Questions referred

1. (a) If a patent does not, upon grant, contain a claim that explicitly identifies two active ingredients in combination, but the patent could be amended so as to include such a claim could this patent, whether or not such an amendment is made, be relied upon as a 'basic patent in force' for a product comprising those ingredients in combination pursuant to Article 3(a) of Regulation No 469/2009/EC [1] ('the Regulation')?

(b) Can a patent that has been amended after the grant of the patent and either (i) before and/or (ii) after grant of the SPC be relied upon as the 'basic patent in force' for the purposes of fulfilling the condition set out in Article 3(a) of the Regulation?

(c) Where an applicant applies for an SPC for a product comprised of active ingredients A and B in circumstances where,

(i) after the date of application for the SPC but before the grant of the SPC, the basic patent in force, being a European Patent (UK) (the 'Patent') is amended so as to include a claim which explicitly identifies A and B;

and

(ii) the amendment is deemed, as a matter of national law, always to have had effect from the grant of the Patent;

is the applicant for the SPC entitled to rely upon the Patent in its amended form for the purposes of fulfilling the Art 3(a) condition?

2. For the purposes of determining whether the conditions in Article 3 are made out at the date of the application for an SPC for a product comprised of the combination of active ingredients A and B, where (i) the basic patent in force includes a claim to a product comprising active ingredient A and a further claim to a product comprising the combination of active ingredients A and B and (ii) there is already an SPC for a product comprising active ingredient A ('Product X') is it necessary to consider whether the combination of active ingredients A and B is a distinct and separate invention from that of A alone ?

3. Where the basic patent in force 'protects' pursuant to Article 3(a):

(a) A product comprising active ingredient A ('Product X'); and

(b) A product comprising a combination of active ingredient A and active ingredient B ('Product Y').

And where:

(c) An authorisation to place Product X on the market as a medicinal product has been granted;

(d) An SPC has been granted in respect of Product X; and

(e) A separate authorisation to place Product Y on the market as a medicinal product has subsequently been granted.

Does the Regulation, in particular Articles 3(c), 3(d) and/or 13(1) of the Regulation preclude the proprietor of the patent being issued with an SPC in respect of Product Y? Alternatively, if an SPC can be granted in respect of Product Y, should its duration be assessed by reference to the grant of the authorisation for Product X or the authorisation for Product Y?

4. If the answer to question 1(a) is in the negative and the answer to question 1(b)(i) is positive and the answer to question 1(b)(ii) is negative, then in circumstances where:

(i) in accordance with Art 7(1) [of the] Regulation, an application for an SPC for a product is lodged within six months of the date on which a valid authorisation to place that product on the market as a medicinal product has been granted in accordance with Directive 2001/83/EC ([2]) or Directive 2001/82/EC ([3]);

(ii) following the lodging of the application for the SPC, the competent industrial property office raises a potential objection to the grant of the SPC under Article 3(a) of the Regulation;

(iii) following and in order to meet the aforesaid potential objection by the competent industrial property office, an application to amend the basic patent in force relied upon by the SPC applicant is made and granted;

(iv) upon amendment of the basic patent in force, said amended patent complies with Article 3(a);

does the SPC Regulation prevent the competent industrial property office from applying national procedural provisions to enable (a) suspension of the application for the SPC in order to allow the SPC applicant to apply to amend the basic patent, and (b) recommencement of said application at a later date once the amendment has been granted, the said date of recommencement being

— after six months from the date on which a valid authorisation to place that product on the market as a medicinal product was granted but

— within six months of the date on which the application to amend the basic patent in force was granted?

([1]) Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products, OJ L 152, p. 1

([2]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, OJ L 311, p. 67

([3]) Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products, OJ L 311, p. 1